



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 4 1985

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

TO: Victor J. Kimm, Director
Office of Drinking Water

FROM: Erik Olson, Attorney *Erik Olson*
Water Division (LE-132W)

THRU: Colburn T. Cherney *CTC*
Associate General Counsel
Water Division (LE-132W)

SUBJECT: Legal Status of Class IV Wells

As you know, there are several important deadlines affecting the legal status of Class IV wells. The ban on Class IV wells contained in the federal regulations became effective on December 25, 1984 for DI I states. See, 49 Fed. Reg. 20138 (May 11, 1984). */ Furthermore, on April 8, 1985, the new statutory ban on all Class IV hazardous waste injection wells in all states becomes effective, under the Hazardous and Solid Waste Amendments of 1984, Pub. L. 98-616, Sec. 405 ("HSWA"). This statutory ban supersedes the regulatory ban on all Class IV wells in DI II states, which would not have been effective until June 30, 1985. 40 CFR §144.13(a)(3).

Under our rules, each Class IV well owner/operator in a DI I state should already have closed his well in accordance with a closure plan approved by the Regional Administrator; Class IV owners/operators in DI II states must submit such a plan by February 28, 1985. 40 CFR §144.23(b). Any Class IV well owner/operator in a DI II state also must notify EPA of his

*/ According to available information, Class IV wells may be located in the DI I states Tennessee, California, Colorado, and Arizona.

intent to abandon his well at least 30 days prior to abandonment (i.e. no later than March 8, 1985). Ibid.

To ensure that the Class IV ban is carried out lawfully and that we are apprised of any problems in time to comply with these tight time deadlines, it would be advisable for us to have in HQ files information regarding all of these Class IV wells in DI states. We need either:

1) evidence that they have been closed in accordance with a closure plan approved by the Regional Administrator as required by 40 CFR 144.23(b), or,

2) a written determination that the waste injected is neither a hazardous waste as defined in 40 CFR 261.3, nor a radioactive waste containing radioactive material in concentrations which exceed those listed in 10 CFR Part 20, Appendix B, Table II, Column 2, and that the wells therefore are not Class IV wells.

In addition, it may be useful to remind the Regions that some states with primary enforcement responsibility have not yet banned all Class IV wells, but instead have banned only "main line" injection by Class IV wells. These states should be advised that our rules now require all Class IV wells to be banned (see, 40 CFR §144.13) within 6 months after the effective date of state program approval. In any event, the new statutory ban on all Class IV hazardous waste injection wells is effective in all states on April 8, 1985. If you wish, we would be happy to work with your staff on a memorandum notifying the Regions of the status of Class IV wells under the new rules and statute.

cc: Paul Baltay